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October 13, 2011

Sent via facsimile: (212) 805-7930

Honorable James C. Francis
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Pretrial Order

Re: Child et al. v. Equity Residential, et al.
Docket No.: 11 Civ. 00334 (PAC)

The following is the parties' joint pretrial order:

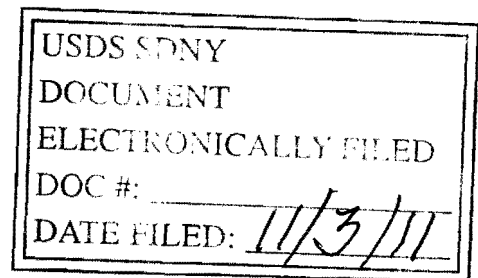
i. UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
-----X
CHRISTINE CHILD AND ANTHONY
CHILD,

Docket No.: 11 Civ. 00334 (PAC)

Plaintiff,

-against-

EQUITY RESIDENTIAL, EQUITY
RESIDENTIAL PROPERTIES
MANAGEMENT CORP. and EQUITY
RESIDENTIAL MANAGEMENT, L.L.C.,
Defendants.
-----X



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ii. The attorneys for this action are as follows:

- | | |
|--|--|
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|--|--|

iii. Jurisdiction is based on diversity of citizenship pursuant to 28 USC 1332. Plaintiffs are residents of the State of New York and Defendants are foreign corporations. The amount in controversy exceeds \$150,000.00.

Defendants acknowledge jurisdiction.

iv. This is an action for damages arising out of Defendants' negligence, breach of contract and breach of implied warranty of habitability which caused Plaintiff Christine Child to slip and fall on ice at the apartment she leased from the Defendants. Plaintiffs made numerous complaints regarding the dangerous condition, which consisted of the gutters over the front porch overflowing and causing an icy and slippery condition. Despite the notice, the condition was not repaired. As a result, Plaintiff sustained serious injuries including a fracture of the lateral malleolus of her left leg. Plaintiffs assert claims against the Defendants for negligence, breach of contract and implied warranty of habitability and loss of consortium.

The defendants deny all allegations of the plaintiff. Specifically, they deny notice, both actual and constructive, of the alleged icy condition that caused plaintiff's fall. Furthermore, the plaintiff has failed to establish the origin and duration of the alleged icy condition. As a result, there has been no negligence on behalf of the defendants, no breach of contract, and no breach of the implied warranty of habitability in this matter.

v. This case is to be tried with a jury. The parties anticipate four (4) days for trial.

vi. There are no stipulations or agreed statements of fact or law at this time.

vii. Plaintiffs intend to offer the testimony of the following witnesses at trial:

- a. Christine Child;
- b. Anthony Child;
- c. Evan Karas, M.D.;
- d. Altido Pilarte;
- e. Juan Calderon, Jr.; and
- f. Samuel Rivera.

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Depending on witnesses called in plaintiff's case in chief, the defendants will offer testimony of the following witnesses at trial:

- a. Juan Calderon;
- b. Wanda Richardson;
- c. Altido Pilarte; and,
- d. Samuel Rivera.

- vii. Plaintiffs do not intend to offer deposition testimony in their case in chief, provided all witnesses appear for trial.

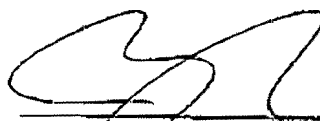
The defendants do not intend to offer deposition testimony in their case in chief provided all witnesses appear for trial.

- ix. Plaintiff intends to offer the following exhibits during their case in chief:
- a. Photographs of the accident scene exchanged with counsel for Defendants;
 - b. Copies of the electronic complaints regarding the accident scene previously exchanged with counsel for Defendants;
 - c. Medical records from Evan Karas, M.D. and Mount Kisco Medical Group; and
 - d. Documents received from Defendants responsive to the August 25, 2011 Demand for Discovery and Inspection.

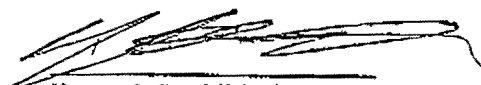
The defendants intend to offer the following exhibits during their case in chief:

- a. March 3, 2010 General Liability Incident Reporting Form regarding Christine Child;
- b. Snow removal logs from February 2010;
- c. Service request log for Unit 1924 from 2007 to the present; and,
- d. Photographs of the accident scene.

Respectfully submitted,



John J. Bailly, Esq. (JB 4081)
Bailly and McMillan, LLP
Attorneys for Plaintiffs



Kenneth P. Skibinski, Esq. ()
Bolan Jahnsen Dacey
Attorneys for Defendants

11/3/11
SO ORDERED.
James C. Francis IV
JCMJ